

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

JASON HENDRIX, #1838519	§	
VS.	§	CIVIL ACTION NO. 6:15cv1015
WILLIAM STEPHENS, ET AL.	§	

ORDER OF PARTIAL DISMISSAL

Plaintiff Jason Hendrix, an inmate previously confined at the Beto Unit of the Texas prison system, proceeding *in forma pauperis* and *pro se*, filed the above-styled and number civil rights lawsuit. He alleges that the Defendants failed to protect him. The Defendants, in turn, filed a motion to dismiss to the extent that the claims for damages against them in their official capacities are barred by the Eleventh Amendment. Director Stephens also argues that the claims against him should be dismissed because there is no respondeat superior in civil rights cases. *See Monell v. Dep't of Social Servs.*, 436 U.S. 658, 691 (1978). The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation (docket entry #33) concluding that the motion to dismiss should be granted. The Plaintiff has filed objections (docket entry #36).

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. The Plaintiff may proceed with his failure to protect claims to the extent that they are properly before the Court; nonetheless, the Defendants correctly raised defenses based

on the Eleventh Amendment and *Monell*. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Report and Recommendation (docket entry #33) is **ADOPTED**. It is further


**ORDERED** that Defendants Stephens, Alsobrook and Harris' motion to dismiss (docket entry #22) is **GRANTED**. It is further

**ORDERED** that claims against Defendants Stephens, Alsobrook and Harris in their official capacities for monetary damages are **DISMISSED** with prejudice pursuant to Fed. R. Civ. P. 12(b)(1). It is finally

**ORDERED** that the claims against Defendant Stephens are further **DISMISSED** with prejudice for all purposes pursuant to Fed. R. Civ. P. 12(b)(6).

**It is SO ORDERED.**

**SIGNED this 13th day of March, 2016.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE